

**US Army Corps
of Engineers®**

PUBLIC NOTICE

US Army Corps of Engineers
New York District
ATTN: Harbor Programs Branch (Shea)
26 Federal Plaza, Room 2119
New York, NY 10278-0090

In replying refer to:
Public Notice Number: FP62-S-AM-1-2004
Issue Date: 15 February 2005
Expiration Date: 21 March 2005

**OCEAN PLACEMENT OF DREDGED MATERIALS FROM
NEW YORK AND NEW JERSEY HARBOR DEEPENING
FEDERAL NAVIGATION PROJECT
NEW YORK HARBOR, AMBROSE CHANNEL CONTRACT AREA S-AM-1**

TO WHOM IT MAY CONCERN:

Pursuant to Section 103 of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972 (commonly referred to as the Ocean Dumping Act, 33 U.S.C. 1413), this public notice serves as the U.S. Army Corps of Engineers New York District notification and request for comments relating to the potential placement of Historic Area Remediation Site (HARS) suitable material obtained under the first Ambrose Channel deepening construction contract for the New York and New Jersey Harbor Deepening (50-foot) Project, as authorized by Section 101(a)(2) of the Water Resources Act of 2000, Public Law 106-541. This proposed placement would allow suitable dredged sand to be placed at the Historic Area Remediation Site (HARS) - see below for further information.

ACTIVITY:

The proposed action is to place up to approximately 4,867,000 cubic yards of dredged sand in the Atlantic Ocean at the Historic Area Remediation Site (HARS) from the Ambrose Channel deepening contract. This dredged material has been found to be suitable Remediation Material. Subject to future coordination (including separate public notice as appropriate) and approvals, some of the dredged sand may not go to the Historic Area Remediation Site (HARS) because it can be put to other beneficial reuse at other locations within the New York and New Jersey Harbor-Estuary. Because no such beneficial uses are currently available or practicable, all of the approximately 4,867,000 cubic yards is scheduled for beneficial use as Remediation Material at the Historic Area Remediation Site (HARS). The sands are not granular enough for nourishment of ocean beaches.

LOCATION:

Dredged sands from the Ambrose Federal Navigation Entrance Channel to the Port of New York and New Jersey are to be placed in the Atlantic Ocean at the Historic Area Remediation Site (HARS) 3.5 miles off of New Jersey. The navigation channel extends from the Verrazano-Narrows Bridge with its confluence with the Anchorage Channel, southeasterly to deep water in the Atlantic Ocean, approximately 14 miles, near the Ambrose Light. This construction contract area is the western half of the channel, as the channel is divided down the centerline, with an approximate width of 1,000 feet. These areas are shown on the figures attached to this public notice.

DESCRIPTION OF PLANNED ACTION:

This specific action is to place at the Historic Area Remediation Site (HARS), as Remediation Material, approximately 4,867,000 cubic yards of dredged sands from the deepening of the existing federal 45-foot Ambrose Navigation Channel to a navigable depth of 53 feet below mean low water (MLW) datum, with up to an additional 2.0 feet allowable overdepth from the channel's confluence with the Anchorage Channel in the Upper New York Bay, to the 53-foot contour line, mean low water datum, in the Atlantic Ocean. The overall New York and New Jersey Harbor Deepening Project will be constructed using sixteen construction contracts (see attached Figure 1). The Ambrose Channel portion of the deepening project will be accomplished using two construction contracts. The beneficial reuse action described herein is for the first of the two planned construction contract areas within the Ambrose Channel. The specific name is Contract Area S-AM-1 (see attached Figure 2). This construction contract is for the western half of Ambrose Channel. The second construction contract in the future will deepen the eastern half of the navigation channel as shown on the attached Figure 2.

Contract Area S-AM-1

Contract Area S-AM-1 contains sand that is to be dredged and removed to a depth of -55.0 feet mean low water datum (i.e., design depth of -53.0 plus an additional 2.0 feet of dredging overdepth to ensure that the required depth is achieved). The U.S. Army Corps of Engineers New York District is currently planning that all the dredged sands will be used beneficially as Historic Area Remediation Site (HARS) Remediation Material. The contract under discussion in this public notice is expected to begin in early summer 2005 and have duration of approximately 14 months. The U.S. Army Corps of Engineers New York District is requesting a Water Quality Certificate from the States of New York and New Jersey concurrently with this public notice in accordance with Section 401 of the Clean Water Act.

The U.S. Environmental Protection Agency Region 2 and the U.S. Army Corps of Engineers New York District have evaluated bathymetric surveys, bottom sediment core logs and ocean current data from the Ambrose Channel area to determine whether the proposed dredged material meets the criteria for ocean placement without additional testing as described in the Ocean Dumping Regulations at 40 CFR 227.13(b)(1). As specified in the regulations, the proposed dredged material satisfies these criteria if it is composed predominantly of sand, gravel, rock, or any other naturally occurring bottom material with particle sizes larger than silt, and the material is found in areas of high current or wave energy such as streams with large bed loads or coastal areas with shifting bars and channels. The U.S. Environmental Protection Agency Region 2 and the U.S. Army Corps of Engineers New York District evaluation has shown that sands to be dredged from the Ambrose Channel meet the requirements of 40 CFR 227.13(b)(1) and are suitable for placement in the ocean at the Historic Area Remediation Site (HARS) as Remediation Material without additional testing.

The purpose of this public notice is to solicit comments regarding the proposed placement of the sand dredged materials at the Historic Area Remediation Site (HARS). These comments, along with all available technical data/information, will form the basis of a determination of whether this proposed placement is in the public interest. The Historic Area Remediation Site (HARS) (attached Figures 3 & 4), located in the Atlantic Ocean off the coasts of New York and New Jersey, is described later in this notice.

The proposed transportation of this dredged material for placement in ocean waters is being evaluated to determine that the proposed placement will not unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems or economic potentialities. The criteria established by the Administrator, U.S. Environmental Protection Agency, pursuant to Section 102(a) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) will be applied. In addition, based upon an evaluation of the potential effect which the failure to utilize this ocean placement site will have on navigation, economic and industrial development, and foreign and domestic commerce of the United States, an independent determination will also be made of the need to place the dredged material in ocean waters, considering other possible methods of disposal and other appropriate locations, if and when they may become available subject to the construction contract's execution schedule.

ALL COMMENTS REGARDING THIS ACTIVITY MUST BE PREPARED IN WRITING AND MAILED TO REACH THE NEW YORK DISTRICT, U.S. ARMY CORPS OF ENGINEERS AT THE OFFICE ADDRESS SHOWN ON THE FRONT PAGE OF THIS NOTICE, BEFORE THE EXPIRATION DATE OF THIS NOTICE. Otherwise, it will be presumed that there are no objections to the activity.

Any person who has an interest, or may be affected by the placement of this dredged material may request a public hearing. The request must be submitted in writing within the comment period of this notice and must clearly set forth the interest affected and the manner in which the interest may be affected by the proposed activity. It should be noted that information submitted by mail is considered just as carefully in the process and bears the same weight as that furnished at a public hearing.

The proposed placement at the Historic Area Remediation Site (HARS) has been reviewed based upon the "Biological Assessment for the Closure of the Mud Dump Site and Designation of the Historic Area Remediation Site (HARS) in the New York Bight and Apex" (U.S. Environmental Protection Agency Region 2, 1997) prepared pursuant to Section 7 of the Endangered Species Act (16 USC 1531). Based upon that review, and a review of the latest public listing of threatened and endangered species, it has been preliminarily determined that the proposed activity described herein is not likely to adversely affect any federally-listed threatened or endangered species (humpback whales, finback whales, right whales, loggerhead turtles, leatherback turtles, green turtles, and Kemp's Ridley turtles) or their critical habitat.

As noted in the designation of the Historic Area Remediation Site (HARS), the material proposed for Historic Area Remediation Site (HARS) placement will not be placed within 0.27 nautical miles of any identified wrecks, or other wrecks that might be found. Other than two wrecks that are located within Remediation Area Number 1, there are no known sites eligible for, or included in, the Register within the dredged material placement area. No known archaeological, scientific, pre-historical or historical data is expected to be lost by the anticipated placement of dredged material.

The U.S. Army Corps of Engineers New York District continues to work closely with the following Federal and State agencies:

- U.S. Environmental Protection Agency
- U.S. Department of the Interior, Fish and Wildlife Service
- U.S. Department of Commerce, National Marine Fisheries Service

- U.S. Coast Guard, Activities New York
- New Jersey Department of Environmental Protection
- New York State Department of Environmental Conservation
- New York State Department of State

ENVIRONMENTAL DOCUMENTATION:

The environmental impacts of the New York and New Jersey Harbor Deepening Project have been evaluated in National Environmental Policy Act (NEPA) and other regulatory documents including: (1) the Final Feasibility Report and Final Environmental Impact Statement dated December 1999; (2) the Final Limited Reevaluation Report and Final Environmental Assessment/Finding of No Significant Impact dated January 2004; (3) the Federal Record-of-Decision signed in June 2002. Copies of these documents can be viewed and/or obtained by contacting Mr. Thomas Shea, Project Manager for the New York and New Jersey Harbor Deepening Project, at telephone number (212) 264-5570 or 917-790-8304.

HISTORIC AREA REMEDIATION SITE (HARS):

In 1972, Congress enacted the Marine Protection Research and Sanctuaries Act (MPRSA) to address and control the dumping of materials into ocean waters. Title I of the Act authorized the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers to regulate dumping in ocean waters. The U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers share responsibility for the Marine Protection, Research, and Sanctuaries Act (MPRSA) permitting and ocean disposal site management. The U.S. Environmental Protection Agency regulations implementing the Marine Protection, Research, and Sanctuaries Act (MPRSA) are found at 40 CFR Sections 220 through 229. With few exceptions, the Marine Protection, Research, and Sanctuaries Act (MPRSA) prohibits the transportation of material from the United States for the purpose of ocean dumping except as may be authorized by a permit issued under the Marine Protection, Research, and Sanctuaries Act (MPRSA). The Marine Protection, Research, and Sanctuaries Act (MPRSA) divides permitting responsibility between the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers. Under Section 102 of the Marine Protection, Research, and Sanctuaries Act (MPRSA), the U.S. Environmental Protection Agency has responsibility for issuing permits for all materials other than dredged material. Under Section 103 of the Marine Protection, Research, and Sanctuaries Act (MPRSA), the Secretary of the Army has the responsibility for issuing permits for dredged material, subject to the U.S. Environmental Protection Agency's concurrence.

In the fall of 1997, the U.S. Environmental Protection Agency de-designated and terminated the use of the New York Bight Dredged Material Disposal Site (commonly known as the Mud Dump Site or MDS). The Mud Dump Site (MDS) had been designated in 1984 for the disposal of up to 100 million cubic yards of dredged material from navigation channels and other port facilities within the Port of New York and New Jersey. Simultaneous with the closure of the Mud Dump Site (MDS), the site and surrounding areas that had been used historically as disposal sites for dredged materials were redesignated as the Historic Area Remediation Site (HARS) (Figures 3 & 4) under authority of Section 102[c] of Marine Protection, Research, and Sanctuaries Act (MPRSA) at 40 CFR Sections 228.15(d)(6) (See 62 Fed. Reg. 46142 (August 29, 1997); 62 Fed. Reg. 26267 (May 13, 1997)). The Historic Area Remediation Site (HARS) will be managed to reduce impacts of historical

disposal activities at the site to acceptable levels in accordance with 40 CFR Sections 228.11(c). The need to remediate the Historic Area Remediation Site (HARS) is supported by the presence of toxic effects, dioxin bioaccumulation exceeding Category 1 levels in worm tissue, as well as TCDD/PCB contamination in area lobster stocks. Individual elements of those data do not establish that sediments within the Study Area are imminent hazards to the New York Bight Apex ecosystem, living resources, or human health. However, the collective evidence presents cause for concern, and justifies the need for remediation. Further information on the surveys performed and the conditions in the Historic Area Remediation Site (HARS) Study Area may be found in the Supplemental Environmental Impact Statement (U.S. Environmental Protection Agency Region 2, 1997).

The designation of the Historic Area Remediation Site (HARS) identifies an area in and around the former Mud Dump Site (MDS) that has exhibited the potential for adverse ecological impacts. The Historic Area Remediation Site (HARS) will be remediated with dredged material that meets current Category 1 standards and it will not cause significant undesirable effects including through bioaccumulation or unacceptable toxicity, in accordance with 40 CFR 227.6. This dredged material is referred to as "Material for Historic Area Remediation Site (HARS) Remediation" or "Historic Area Remediation Site (HARS) Remediation Material".

As of the end of December 2004, dredged materials from at least thirty eight different completed and ongoing private and federal dredging projects in the Port of New York and New Jersey has been dredged and placed as Remediation Material in the ocean at the Historic Area Remediation Site (HARS) since the closure of the Mud Dump Site (MDS) and designation of the Historic Area Remediation Site (HARS) in 1997. This represents approximately 22,398,000 cubic yards of Remediation Material.

The Historic Area Remediation Site (HARS), which includes the 2.2 square nautical mile area of the former Mud Dump Site (MDS), is an approximately 15.7 square nautical mile area located approximately 3.5 nautical miles east of Highlands, New Jersey and 7.7 nautical miles south of Rockaway, New York. The former Mud Dump Site (MDS) is located approximately 5.3 nautical miles east of Highlands, New Jersey and 9.6 nautical miles south of Rockaway, New York. When determined by bathymetry that capping is complete, the U.S. Environmental Protection Agency will undertake any necessary rulemaking to de-designate the Historic Area Remediation Site (HARS). The Historic Area Remediation Site (HARS) includes the following three areas:

Priority Remediation Area (PRA): A 9.0 square nautical mile area to be remediated with at least 1 meter of Remediation Material. The Priority Remediation Area (PRA) encompasses an area of degraded sediments as described in greater detail in the SEIS.

Buffer Zone: An approximately 5.7 square nautical mile area. It is a 0.27 nautical mile wide band around the Priority Remediation Area (PRA) in which no placement of the Material for Remediation will be allowed, but which may receive Material for Remediation that incidentally spreads out of the Priority Remediation Area (PRA).

No Discharge Zone: An approximately 1.0 square nautical mile area in which no placement or incidental spread of the Material for Remediation is allowed.

To improve management and monitoring of placement activities at the Historic Area Remediation Site (HARS), electronic monitoring equipment is used on-board vessels carrying Remediation Material to the Historic Area Remediation Site (HARS). This equipment records vessel positions and scow draft throughout the duration of each trip to the Historic Area Remediation Site (HARS) and during remediation operations. To improve communication reliability between tugs and scows, a prescribed formal communication procedure has been put in place (copies of this procedure are available upon request).

Over the past years, the U.S. Environmental Protection Agency Region 2 and the U.S. Army Corps of Engineers New York District have been refining the approach to the technical review and scientific and regulatory analysis of dredging projects' dredged materials proposed for placement at the Historic Area Remediation Site (HARS). Sediment testing evaluation processes are evolving, which establish a responsible framework for assessing results of physical, chemical and bioaccumulation test results, to include tissue analysis from bioaccumulation testing of dredged materials proposed for ocean placement. The bioaccumulation framework defines a standard approach for assessing each analyte (an item to be analyzed for as part of the testing), in relation to regulatory standards and human health and environmental risk factors. The framework's purpose is to facilitate decision, and final decision making, in accordance with the Marine Protection, Research and Sanctuaries Act of 1972. The U.S. Environmental Protection Agency Region 2 and the U.S. Army Corps of Engineer New York District utilize these testing evaluation processes for identifying Historic Area Remediation Site (HARS)-suitable dredged materials for remediation of the Historic Area Remediation Site (HARS).

Additional information concerning the Historic Area Remediation Site (HARS) itself can be obtained from Mr. Douglas Pabst of the U.S. Environmental Protection Agency Region 2, Dredged Material Management Team Leader, at telephone number (212) 637-3797.

ALTERNATIVES TO HISTORIC AREA REMEDIATION SITE (HARS) PLACEMENT:

As regards ocean placement of dredged material, the Ocean Dumping Regulations (Title 40 CFR Sections 227.16(b)) state that "...alternative methods of disposal are practicable when they are available at reasonable incremental cost and energy expenditures which need not be competitive with the costs of ocean dumping, taking into account the environmental impacts associated with the use of alternatives to ocean dumping....". The U.S. Army Corps of Engineers New York District has evaluated the regional practicability of potential alternatives for dredged material disposal in a September 1999 Draft Implementation Report for the Dredged Material Management Plan for the Port of New York and New Jersey. The Recommended Plan within the report addresses both the long and short term dredged material placement options in two specific timeframes, heretofore referred to as the "2010 Plan" and the "2040 Plan" respectively.

The 2010 Plan relies heavily on the creation, remediation, and restoration of a variety of existing degraded or impacted sites in the region with material that would or would not be considered suitable for Historic Area Remediation Site (HARS) remediation. The Plan anticipates that a considerable volume of Historic Area Remediation Site (HARS) suitable material will be placed at alternative beneficial use sites currently under development. Use of these sites performs habitat creation (for shellfish, oyster, and bird), habitat restoration at existing degraded pit sites, landfill and quarry remediation, provision of construction material, and beach nourishment. The remaining dredged material is treated and stabilized, as needed, and then applied to remediate degraded and

potentially polluting areas such as brownfields, landfills and abandoned strip mines. Nearly all of the options considered in the 2010 Plan have a placement cost of \$29 per cubic yard or higher.

Many dredged material management options presented in the 2010 Plan are not presently permitted and/or are presently under construction, and are unavailable for the purposes of this notice. However, as alternative sites are developed and permitted, they may be evaluated and designated for use for the remaining dredged material from the New York and New Jersey Harbor Deepening Project. As specific alternative sites and their applicable testing/regulatory criteria are subject to change, future public notices on the remaining New York and New Jersey Harbor Deepening Project contracts will be issued as evaluations and testing of the material to be dredged are performed and as other alternative placement sites are developed.

Based upon the lowest responsive and responsible bid received for Contract Area 1 for the Arthur Kill 41-foot Deepening Project, the incremental cost for using an upland placement site as an alternative site to the Historic Area Remediation Site (HARS) for the Pleistocene red-brown clay and glacial till materials in that construction contract was found to be \$9,190,000, or about \$38.00 per cubic yard. This represents over a 23% increase in the cost of these construction contract line items to the United States and the Port Authority of New York and New Jersey over the cost of being able to place the dredged material at the Historic Area Remediation Site (HARS). Consequently, the incremental cost for using this alternative, when compared to the Historic Area Remediation Site (HARS) placement, is not considered practicable.

For the sand material to be dredged from the Ambrose Channel, Contract Area S-AM-1, that has been found suitable for use as Historic Area Remediation Site (HARS) Remediation Material, the U.S. Army Corps of Engineers New York District will prepare a memorandum for the record for the placement of this material at the Historic Area Remediation Site (HARS), which will fully consider all the comments received in response to this public notice.

Conclusion

The U.S. Army Corps of Engineers New York District and the U.S. Environmental Protection Agency Region 2 have concluded (23 December 2003) that the dredged material sands to be removed from Ambrose Channel meet the criteria for ocean placement as described in 40 CFR parts 227.13 (b)(1) and are suitable for placement at the Historic Area Remediation Site (HARS) as Remediation Material without additional testing.

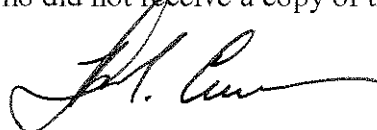
Placement of this material at the Historic Area Remediation Site (HARS) would serve to reduce impacts at the Historic Area Remediation Site (HARS) to acceptable levels and improve benthic conditions. Unremediated sediments in the Historic Area Remediation Site (HARS) have been found to adversely impact benthic marine organisms as described above. Placement of this project's dredged material over existing unremediated sediments would serve to remediate those areas. In addition, by covering the existing sediments at the Historic Area Remediation Site (HARS) with this project's dredged material, surface dwelling organisms will be exposed to sediments exhibiting Category 1 qualities, which will ameliorate the existing sediment conditions.


Please contact Mr. Thomas Shea, the New York and New Jersey Harbor Deepening Project Manager; at telephone number (212) 264-5570 or 917-790-8304 should you have any questions

regarding this public notice or the New York and New Jersey Harbor Deepening Project in general. Comments or questions may be FAXED to (212) 264-2924.

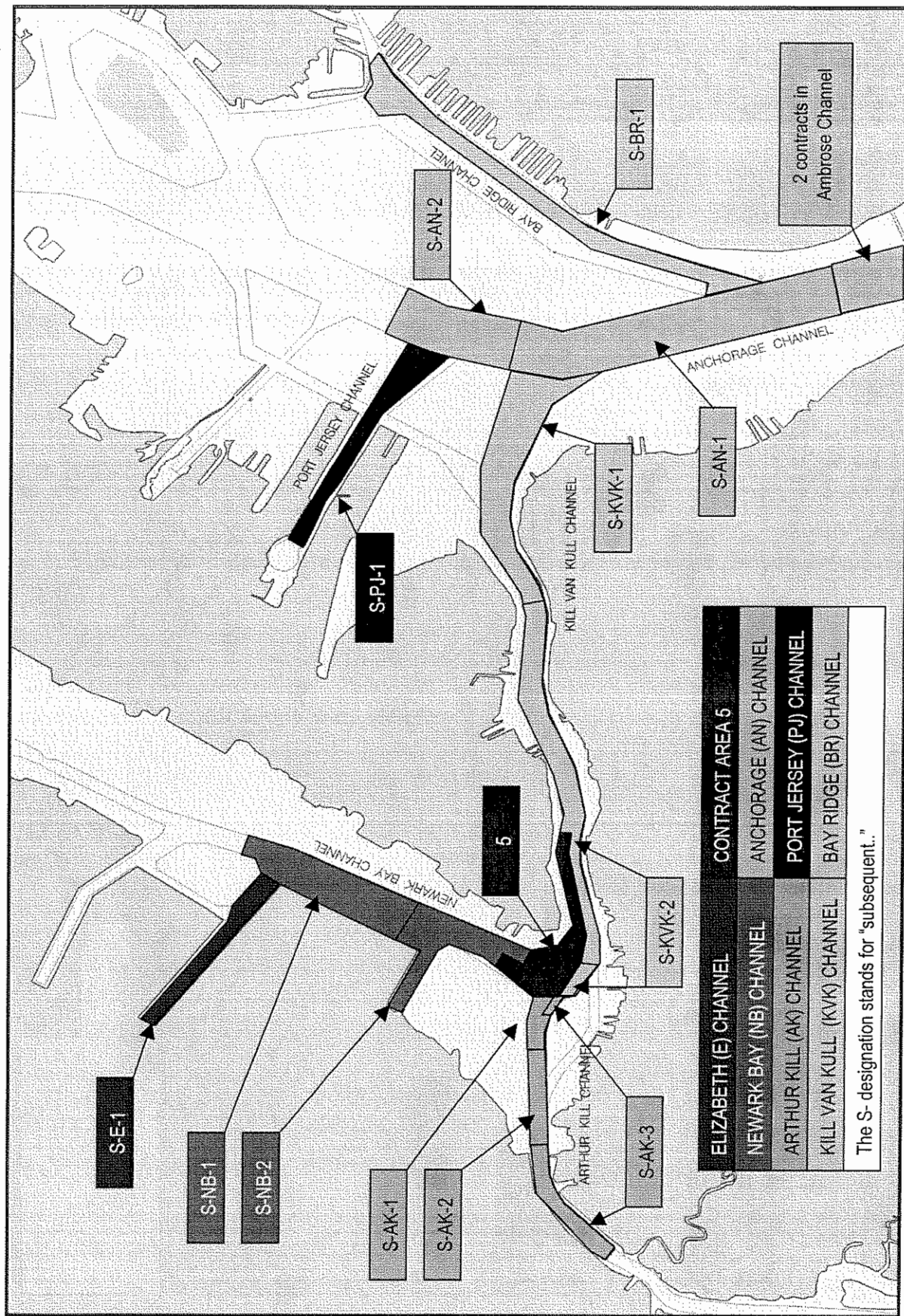
For more information on New York District programs, visit our website at <http://www.nan.usace.army.mil>.

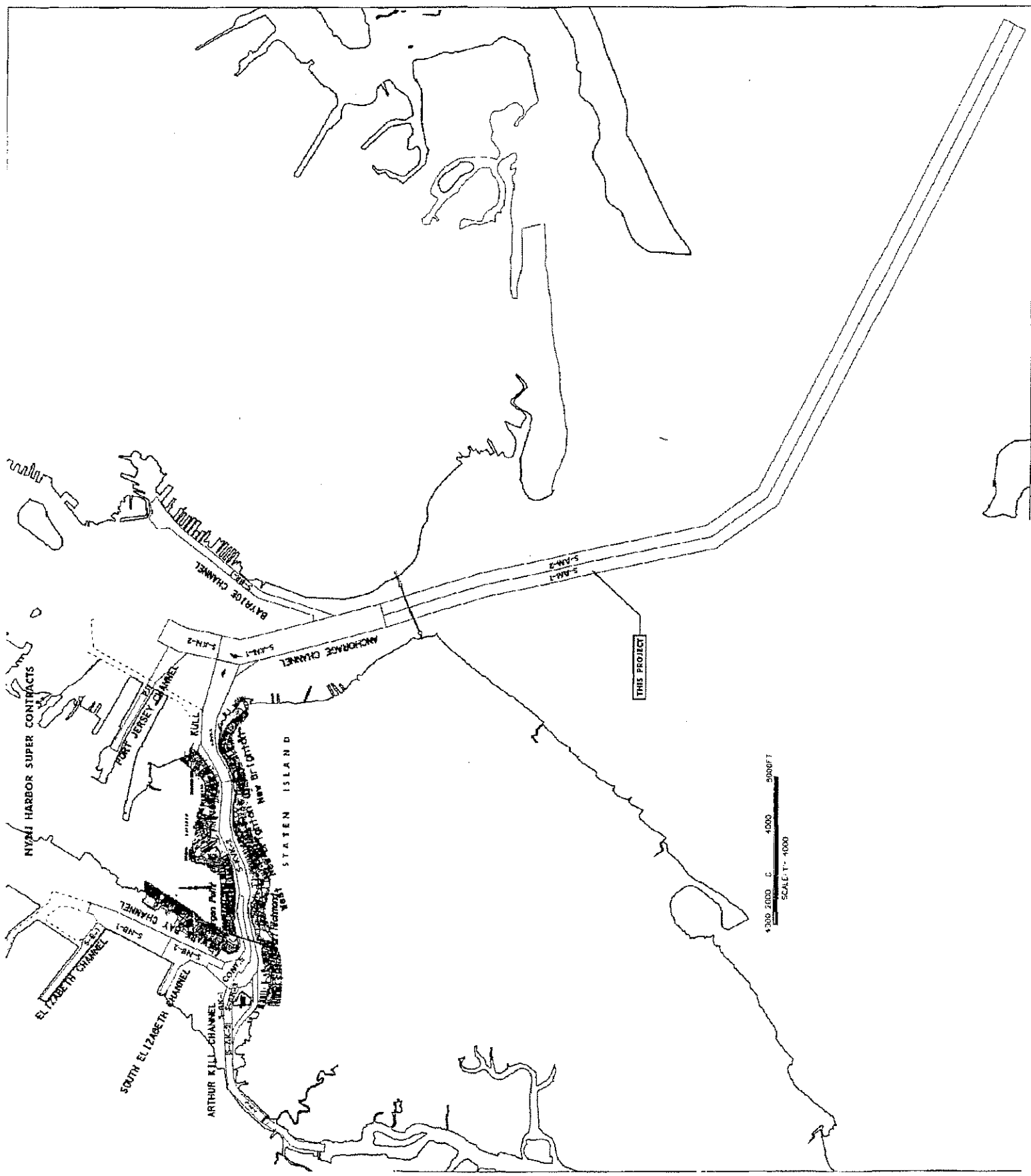
We request that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and who did not receive a copy of this notice.



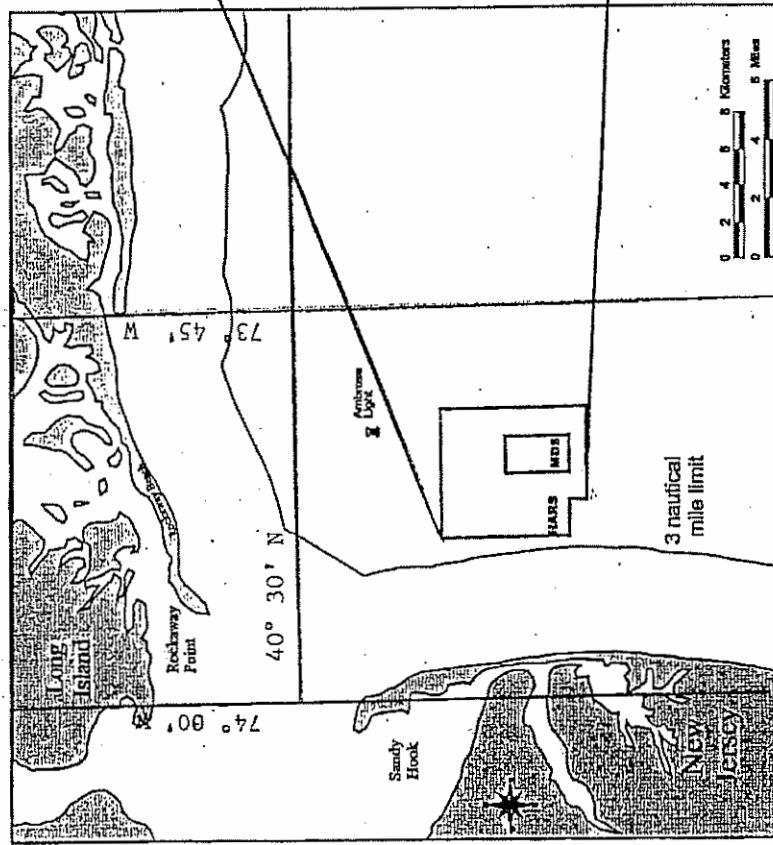
 William F. Slezak
Acting Chief, Harbor Programs Branch

Attachments

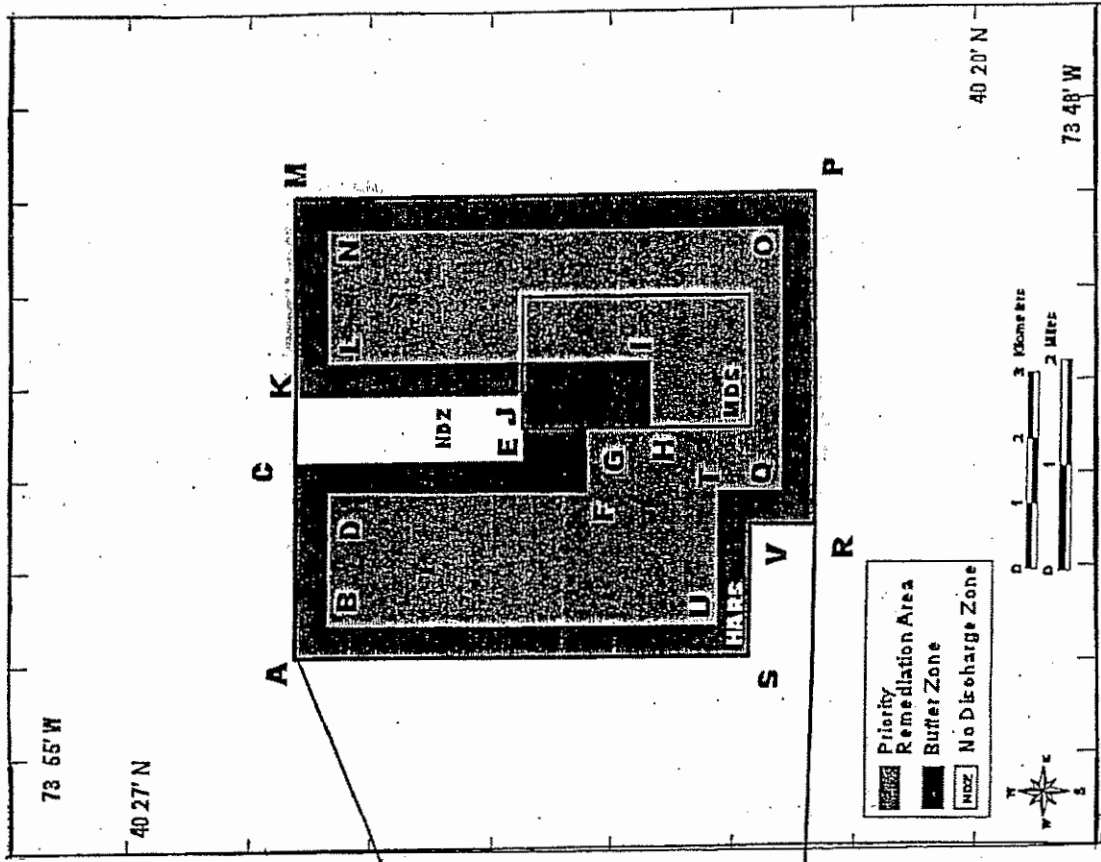




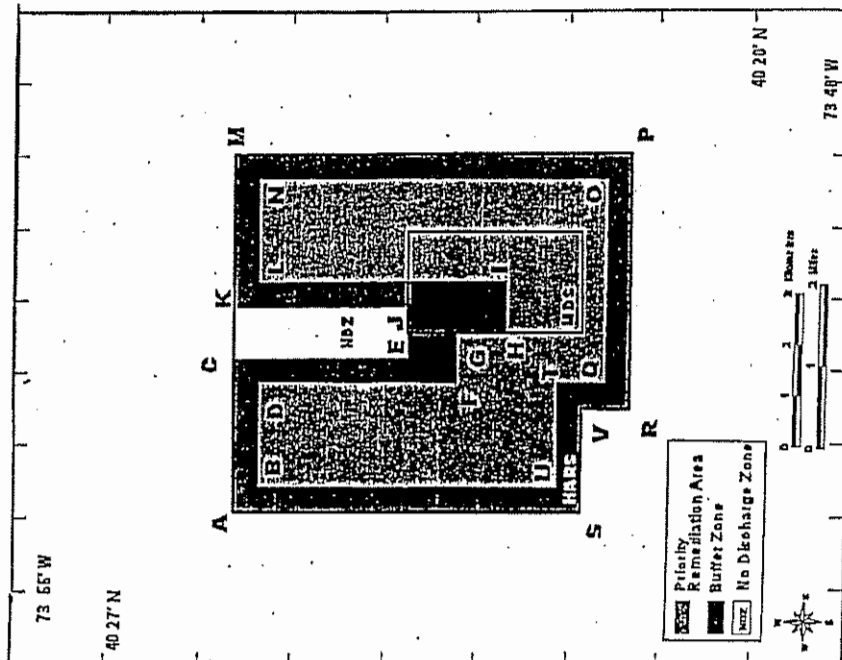
HISTORIC AREA REMEDIATION SITE LOCATION MAP



LOCATION OF PRIMARY REMEDIATION AREA WITHIN THE HISTORIC AREA REMEDIATION SITE



00900 ATT. A-2



Priority Remediation Area (PRA): 9.0 square nautical mile area to be remediated with at least one meter of Remediation Material, bounded by the following coordinates:

Point	Latitude DMS *	Longitude DMS	Latitude DDM **	Longitude DDM
B	40° 25' 23" N	73° 53' 34" W	40° 25.38' N	73° 53.57' W
D	40° 25' 22" N	73° 52' 08" W	40° 25.37' N	73° 52.13' W
F	40° 23' 13" N	73° 52' 09" W	40° 23.22' N	73° 52.15' W
G	40° 23' 13" N	73° 51' 28" W	40° 23.22' N	73° 51.47' W
H	40° 22' 41" N	73° 51' 28" W	40° 22.68' N	73° 51.47' W
I	40° 22' 41" N	73° 50' 43" W	40° 22.68' N	73° 50.72' W
L	40° 25' 22" N	73° 50' 44" W	40° 25.37' N	73° 50.73' W
N	40° 25' 22" N	73° 49' 19" W	40° 25.37' N	73° 49.32' W

*-- DMS = Degrees, Minutes, Seconds

** -- DDS := Degrees, Decimal Minutes

SHEET OF